

HOUSE BILL REPORT

SSB 6201

As Reported by House Committee On:
Judiciary

Title: An act relating to the creation of a homeowners' association act committee.

Brief Description: Creating a homeowners' association act committee.

Sponsors: Senate Committee on Financial Institutions, Housing & Consumer Protection
(originally sponsored by Senator Fairley).

Brief History:

Committee Activity:

Judiciary: 2/22/06 [DP].

Brief Summary of Substitute Bill

- Establishes a committee to review the Homeowners' Association Act (Act) and issues affecting homeowners' associations and recommends whether or not changes should be made to the Act.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 9 members: Representatives Lantz, Chair; Flannigan, Vice Chair; Williams, Vice Chair; Priest, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Kirby, Serben, Springer and Wood.

Staff: Edie Adams (786-7180).

Background:

A homeowners' association is an organization consisting of the homeowners and property owners within a residential development. Often homeowners' associations are formed by the land developer or the builder of planned unit developments pursuant to a restrictive covenant or a contract. Homeowners' associations can be organized in different ways, including incorporated under the Business Corporation Act or the Nonprofit Corporation Act, or as an unincorporated association.

The primary functions of homeowner's associations include: imposing and collecting assessments on property owners; managing and maintaining common areas, such as parks, lakes, roads, and community centers for the benefit of the community; and enforcing restrictive covenants that govern the community. In addition, homeowners' associations may adopt rules and regulations concerning property use in the community and impose fines for

violations of those rules. They derive authority to carry out these functions from several documents, including the declaration of covenants, conditions, and restrictions, the association's bylaws and articles of incorporation, and the deeds to the property within the development.

In 1995, the Legislature passed legislation concerning the operation of homeowners' associations, often referred to as the Homeowners' Association Act (Act). The Act regulates the operation of homeowners' associations in a number of ways, including requirements with respect to duties of the board of directors, association bylaws, adoption of the association budget, and association meeting and quorum requirements.

Summary of Bill:

The Homeowners' Association Act Committee (Committee) is established. The purpose of the Committee is to review the Homeowners' Association Act (Act), the Uniform Common Ownership Interest Act, and current issues concerning homeowners' associations. The Committee is specifically directed to consider the following issues: the method of amending restrictive covenants; voting; alternative dispute resolution mechanisms; communication between association boards and members; the budget ratification process; potential conflicts between the Act and other laws that may apply to the organizational form of an association; the process of placing liens on property for a previous owner's unpaid association dues; and disclosures on the sale of real property within the association.

The Committee consists of the following 10 members:

- two legislators, one from the Senate and one from the House of Representatives;
- one representative of the Community Association Institute;
- one representative of the Washington Homeowners' Coalition;
- one representative of the residential development industry;
- one lawyer experienced in representing associations;
- one lawyer experienced in representing homeowners;
- one person with expertise in homeowners' association law, who shall be the chair of the Committee; and
- two constituents who are members of a homeowners' association and not serving on a homeowners' association board.

The Governor appoints the non-legislative members of the Committee. The Committee must deliver a report of its finding and any proposed implementing legislation to the Legislature by September 1, 2007.

The chapter of law dealing with homeowners' associations is designated the Homeowners' Association Act.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: This bill is an important step in finding solutions for homeowners and the problems they are encountering with their homeowners' associations. The current Homeowner's Association Act has some good components, but it also has some major loopholes, especially in areas relating to the board, such as voting, elections, and closed executive sessions. Some boards operate with impunity and have no personal liability for their actions. The statutory ambiguity relating to homeowners' associations allows them to abuse their positions. The playing field needs to be leveled. Right now, the boards don't have an incentive to do anything to resolve issues. This puts the homeowner up against a wall, because the individual homeowner doesn't have the resources to fight the board. One of the big problems with boards is their tendency to cherry pick which statute they invoke, depending on which one is more favorable to them in the particular situation.

Testimony Against: None.

Persons Testifying: Tom Foley; David Harrison; Jay Garthwaite; Hailey Rust; Elaine Phelps; and Madge Shotwell.

Persons Signed In To Testify But Not Testifying: None.